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|---|-------------|----------------------|--------------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
| 10/607,636  | 06/27/2003  | Bearge Miller        | MEI-P12.1-US             | 8734             |
| 21616 7590 01/10/2007<br>LAW OFFICES OF MARK A. GARZIA, P.C.<br>2058 CHICHESTER AVE<br>BOOTHWYN, PA 19061 |             |                      | EXAMINER<br>LUU, THANH X |                  |
|   |             |                      | ART UNIT                 | PAPER NUMBER     |
|   |             |                      | 2878                     |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE            |                  |
| 3 MONTHS  |             | 01/10/2007           | PAPER*                   |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/607,636 | <b>Applicant(s)</b><br>MILLER ET AL. |  |
|                              | <b>Examiner</b><br>Thanh X. Luu      | <b>Art Unit</b><br>2878              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/24/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "10".
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hatch marks must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next

Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-8, 10 and 13-17, are rejected under 35 U.S.C. 102(b) as being anticipated by Whitaker (U.S. Patent 5,233,185).

Regarding claims 1-4, 6-8, 10 and 13-17, Whitaker discloses (see Figs. 2 and 4) a safety system for controlling movement of an automatically operated overhead door, the overhead door including an overhead door (11) that moves in a vertical direction and that rides in two tracks (15) on either side of the door, an electric motor (16), means for connecting the motor to the door (17, 18) so that when the motor turns in one direction the door lowers, and when the motor turns in the opposite direction, the door rises, and a control system (13) for starting and stopping the motor thereby controlling movement of the door, the safety system comprising: a pair of spring-loaded leg assemblies (at 55) mounted on either side of the door near the door's leading edge; each leg assembly has an outer tube and at least one inner tube (tubes not labeled) having an exterior dimension smaller than the interior dimension of the outer tube so

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that the inner tube can be telescopically inserted into the outer tube; a spring (at 55) mounted inside the tubes to apply an outward axial force between the tubes; an optical transmitter (transmitting fiber together with the transmitter 45) mounted on the inner-most tube of one leg; and optical receiver (receiving fiber together with the receiver 46) mounted on the inner-most tube of the other leg, the optical transmitter sending an optical beam to the optical receiver; sensing circuit (14) electrically connected to at least the optical receiver for determining if the optical beam is broken, the sensing circuit connected to the control system for controlling operation of the motor. As understood, since the transmitter and receivers are on a leading edge of the door, they are held at an "appropriate" distance to accommodate the over-travel of the door. Furthermore, as understood, the length of the legs "can" be adjusted as desired. Whitaker further discloses (see Fig. 4) a pin (where fiber holder enters the tube) and slot (hole for the fiber holder) that limit the nesting of the inner tubes within the outer tubes.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitaker in view of Lin et al. (U.S. Patent 6,176,246).

Regarding claim 5, Whitaker discloses the claimed invention as set forth above. Whitaker does not specifically disclose multiple inner tubes as claimed. Lin et al. teach

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(see Figs.) using multiple tubes in a telescopic assembly to provide a longer length.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide multiple inner tubes as claimed in the apparatus of Whitaker in view of Lin et al. to provide a desired length for optimal operation.

8. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitaker.

Regarding claim 9, Whitaker discloses the invention as set forth above. Whitaker does not specifically disclose the tubes having a square cross-section. However, choosing the particular shape of the tubes is a matter of design choice and would require only routine skill in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide square cross-section tubes in the apparatus of Whitaker as desired.

Regarding claim 12, Whitaker discloses the invention as set forth above. Whitaker does not specifically disclose how the leg assemblies are attached to the door. Whitaker also teaches (see Fig. 3) using metal tabs (53) as an attachment means. Furthermore, choosing a particular manner in which the tubes are attached is a matter of design choice and would require only routine skill in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the metal tabs in the apparatus of Whitaker to obtain a more resilient mount.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitaker in view of Kingsford et al. (U.S. Patent 6,203,071).

Regarding claim 11, Whitaker discloses the claimed invention as set forth above.

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Whitaker does not specifically disclose hatch marks as claimed. Kingsford et al. teach (see Figs.) using hatch marks for improved ease in assembly of parts. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide hatch marks as claimed in the apparatus of Whitaker in view of Kingsford et al. to improve assembly of the device.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X. Luu whose telephone number is 571-272-2441. The examiner can normally be reached on M-F 6:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Thanh X Luu  
Primary Examiner  
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